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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,841	04/15/2004	Ellis H. Leibman	S693-J	6857

28040 7590 10/03/2006

BRUCE A. JAGGER  
6100 CENTER DRIVE  
SUITE 630  
LOS ANGELES, CA 90045

EXAMINER

HENDERSON, MARK T

ART UNIT	PAPER NUMBER
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3722

DATE MAILED: 10/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/824,841

Applicant(s)

LEIBMAN, ELLIS H.

Examiner

Mark T. Henderson

Art Unit

3722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 April 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/15/04</u> . | 6) <input checked="" type="checkbox"/> Other: <u>Attachment I &amp; II</u> .            |

## **DETAILED OFFICE ACTION**

### **Faxing of Responses to Office Actions**

In order to reduce pendency and avoid potential delays, TC 3700 is encouraging FAXing or responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers, which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into TC 3700 will be promptly forwarded to the examiner.

### ***Claim Objections***

1. Claims 1 and 2 are objected to because of the following informalities: Claim 1 discloses the limitation: "said second binder" in line 19; "said first binder" and "said third binder" in line 20, which lacks antecedent basis. Does applicant mean to say "first, second, and third binder spines"? Appropriate correction is required.

*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Han (6,663,310).

Han discloses in Fig. 1, 56 and Attachment I, a binder spine comprising: a back panel (10) being generally rectangular, having a width and a length and bounded by generally opposed lateral edges (10a and 10b); a first edge (10a) being joined through a living hinge (15) to a first panel (20a) mounting edge of a first side panel (20), and a second edge (10b) of the longitudinal edges being joined through a second living hinge (14) to a second panel mounting edge (22a) of a second panel (22); the binder spine being foldable along the living hinges between an open flat configuration and closed figuration; at least one post member (31, in Fig. 1) located on the first side panel (20) and one socket member (32) located on the second side panel (22); wherein the socket and post members include cylindrical mating walls (see Fig. 21) to retainingly interengage one another in the closed configuration to hold the binder spine in the snap-fit closed configuration; and wherein the distance between the socket member being substantially the same in each of the first, second and third binder spines; wherein each of the binder spines includes at least three socket and post members (see Fig. 1).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Han (6,663,310).

Han discloses in Fig. 10, 21 and Attachment II, a system of binder spines comprising: a first, second, and third binder spine; wherein each binder spine comprises a back panel (23) being generally rectangular, having a width and a length and bounded by generally opposed lateral edges (A1 and A2); a first edge (A1) being joined through a living hinge to a first panel (P1) mounting edge of a first side panel, and a second of the longitudinal edges being joined through a second living hinge to a second panel mounting edge of a second panel (P2); the binder spine being foldable along the living hinges between an open flat configuration and closed figuration; at least one post member (36, in Fig. 21) located on the first side panel (P1) and one socket member located on the second side panel (P2); wherein the socket and post members include cylindrical mating walls to retainingly interengage one another in the closed configuration to hold the binder spine in the snap-fit closed configuration; and wherein the distance between the socket member being substantially the same in each of the first, second and

third binder spines; wherein each of the binder spines includes at least three socket and post members.

However Han does not disclose: wherein each of the binder spines have various dimensional configurations from the others.

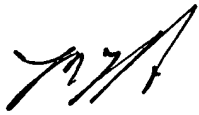
In regards to **Claims 1-5, 8 and 9**, it would have been obvious to one having skill in the art to construct the individual binder spines in any desirable size or dimensions, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. Therefore, it would have been to construct the binder spines with any desirable dimension, since applicant has not disclosed the criticality of having a particular size, and invention would function equally as well if constructed in any desirable size.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Vogel, Felder, Leibman, Hutchinson, Wood, Meier, Miyamoto, and Wiland disclose similar binder spines.

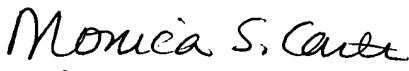
**Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Henderson whose telephone number is (571) 272-4477, and informal fax number is (571) 273-4477. The examiner can be reached on Monday-Friday from 9:00AM to 3:45PM. If attempts to reach the examiner by telephone are unsuccessful, the Examiner Supervisor, Monica Carter, can be reached at (571) 272-4475. The formal fax number for TC 3700 is (571) 273-8300.



MTH

September 27, 2006

  
MONICA CARTER  
SUPERVISORY PATENT EXAMINER

# ATTACHMENT I

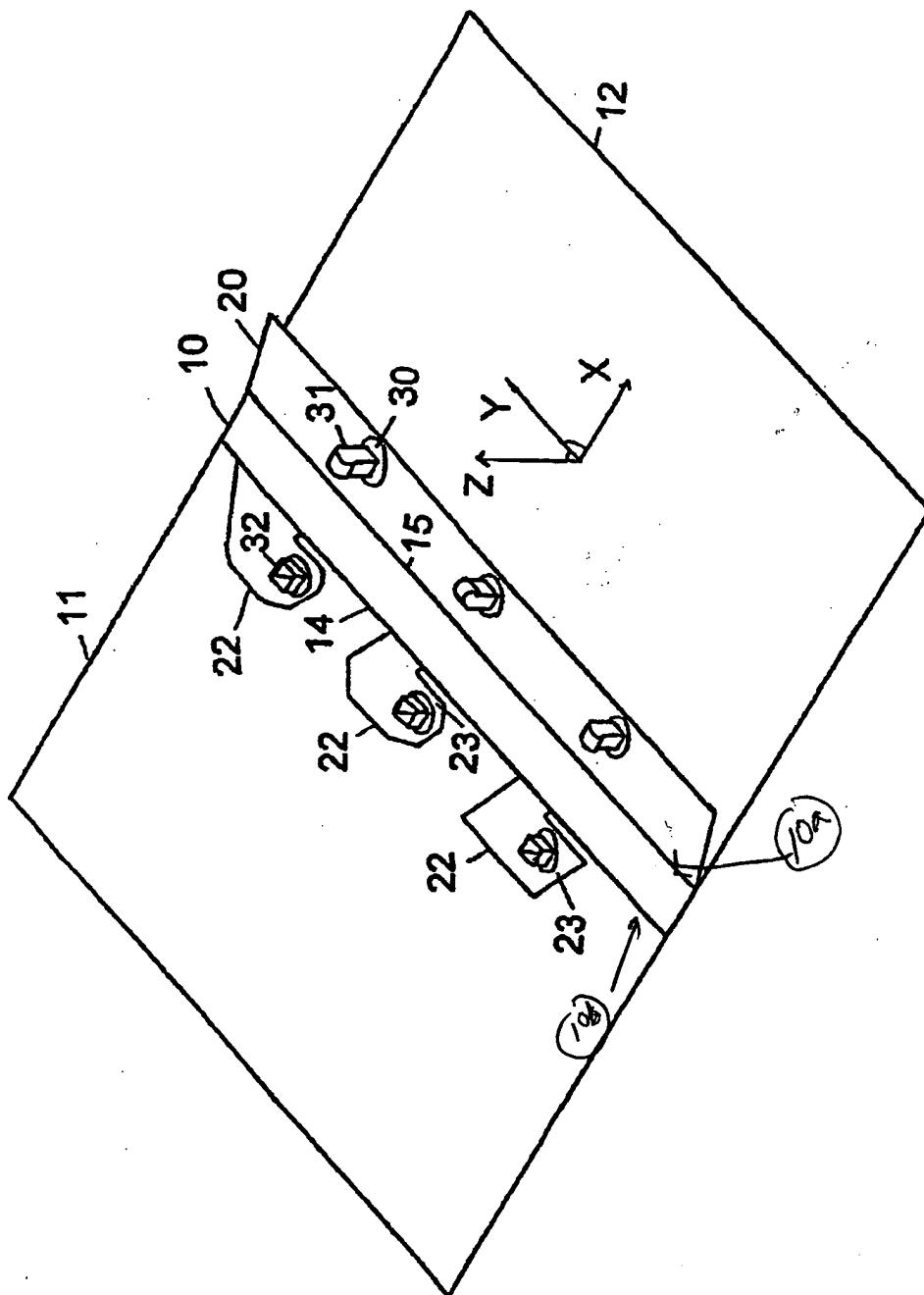


FIG. 1



ATTACHMENT II

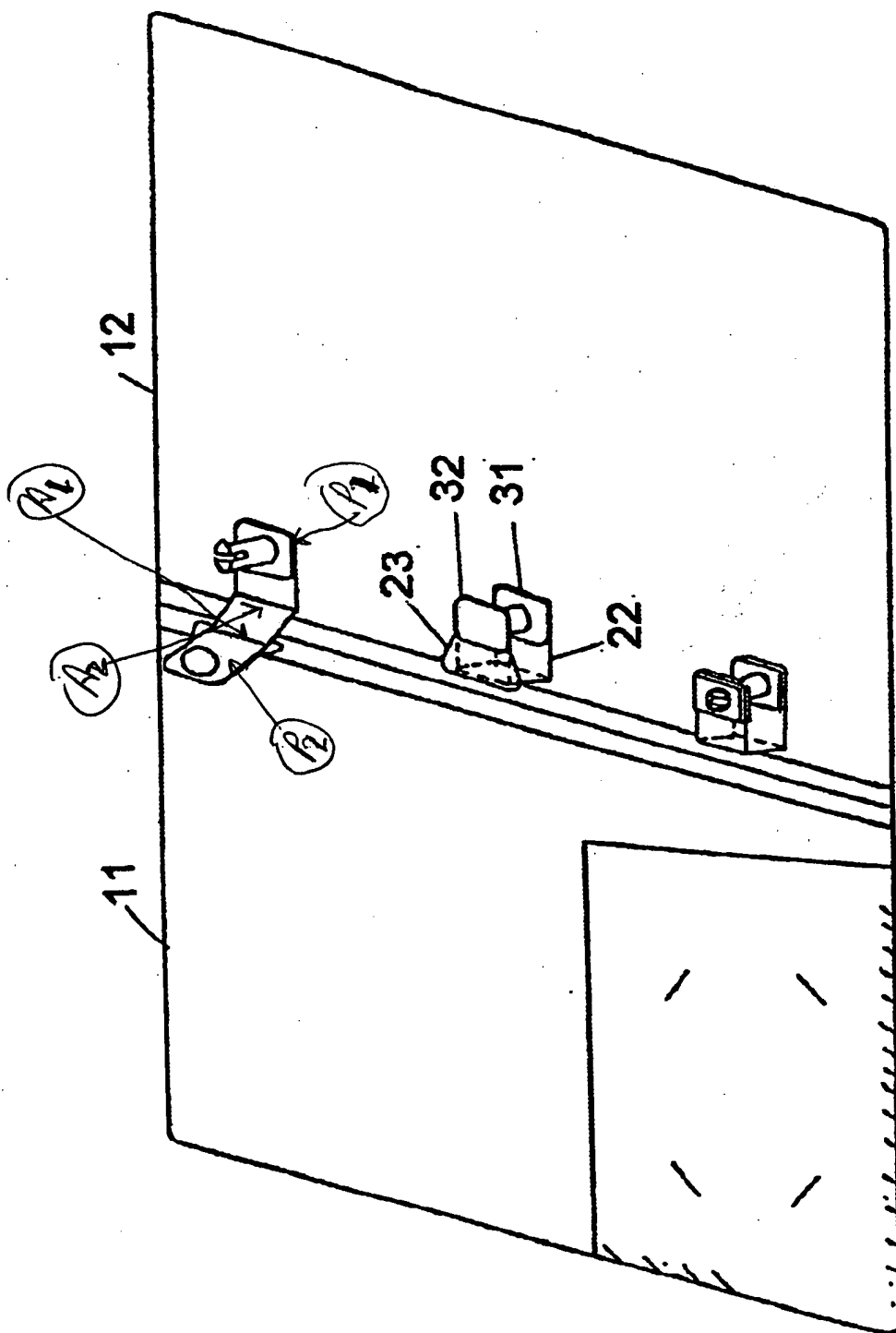


FIG. 10